

**Final Strategic Plan
for the
Alabama Environmental Management Commission
and the
Alabama Department of Environmental Management
April 20, 2004**

I. Vision

To be the premier state environmental agency in the United States in balancing the protection of Alabama's environment and the health of all its citizens with the productive use of Alabama's valuable natural resources.

II. Mission Statement

Responsibly adopt and fairly enforce rules and regulations consistent with the statutory authority granted to the Alabama Environmental Management Commission (AEMC) and the Alabama Department of Environmental Management (ADEM) to protect and improve the quality of Alabama's environment and the health of all its citizens. Monitor environmental conditions in Alabama and recommend changes in state law or revise regulations as needed to respond appropriately to changing environmental conditions.

III. Background

Passage of the Alabama Environmental Management Act in 1982 established the AEMC and ADEM. The Act vests the AEMC with authority in four areas as follows:

- (1) To select a director for ADEM and to advise the Director on environmental matters which are within the Department's scope of authority;*
- (2) To establish, adopt, promulgate, modify, repeal and suspend any rules, regulations or environmental standards for the Department, which may be applicable to the state as a whole or any of its geographical parts;*

(3) To develop environmental policy for the state; and

(4) To hear and determine appeals of administrative actions.

Code of Alabama 1975, § 22-22A-6(a), as amended. The Act also provided for grouping of a number of state agencies into ADEM to promote economy and efficiency in the operation and management of environmental programs.

The AEMC is composed of seven members from diverse professional backgrounds who are appointed by the Governor of the State and confirmed by the State Senate for six-year terms. Code of Alabama 1975, § 22-22A-6(b), as amended. The duties of ADEM are numerous and are set forth in Code of Alabama 1975, § 22-22A-5, as amended. The duties of ADEM are performed under the supervision of the Director who serves at the pleasure of the AEMC and whose pay is set by the AEMC consistent with that of cabinet level appointees. Code of Alabama 1975, § 22-22A-4(b), as amended.

On August 26, 2003, the AEMC adopted a resolution setting forth a process for development of a strategic plan for the AEMC and ADEM along with and an updated programmatic plan for ADEM (copy attached). The resolution established a three-member special committee called the AEMC Strategic Planning Special Committee consisting of Commissioners Sanders, Hairston, and Phillips. The resolution also established a 23-member Environmental Stakeholder Committee (ESC) with diverse members representing environmental and conservation groups, private citizens, state and local agencies, and the regulated community. The ESC met over a four-month period and developed 17 recommendations for the AEMC to consider in preparing this strategic plan. Former AEMC member Stan Graves facilitated meetings of the ESC.

In December 2003, the AEMC Strategic Planning Special Committee sponsored a series of five town hall meetings across the state. The purpose of these meetings was to solicit public input into the strategic planning process. Specifically, the public was invited to provide comments on the strengths,

weaknesses, opportunities, and threats facing the AEMC and ADEM. Various members of the AEMC attended one or more of these meetings as did many senior ADEM officials. All comments made at these meetings were transcribed and were considered by the AEMC in preparing this plan.

IV. Goals and Strategies

Alabama is blessed with a wealth and variety of natural resources including its mountains in the north, its central plains, and its southern coast. The abundance of rich soils, moderate climate, and water resources provide significant social, economic, and environmental benefits and opportunities for the citizens of Alabama. These resources are not unlimited, however; and uses of these resources must be balanced with other societal needs. This plan sets out goals and strategies that will assist the AEMC and ADEM fulfill their mission to protect and improve the quality of Alabama's environment and the health of all its citizens. The plan sets out goals and strategies for the AEMC first and then for ADEM.

A. AEMC Goals and Strategies

1. Strategic Planning Standing Committee

The existing AEMC Strategic Planning Special Committee should be converted to a permanent standing committee to monitor work by the AEMC and ADEM toward fulfillment of the various goals and implementation of the various strategies set forth in this Plan that are not specifically designated to other standing committees for oversight. The committee should recommend specific AEMC actions consistent with this Plan and meet with the Director at a frequency sufficient to apprise the AEMC of ADEM's progress in plan implementation. The committee should make recommendations to the AEMC on plan revisions and determine whether ADEM's internal programmatic strategic plan dated January 16, 2004 is implemented in a manner consistent with this plan.

2. External Relations Standing Committee

The AEMC should establish an External Relations Standing Committee to assist in monitoring legislative issues, media and public outreach, and Executive branch relations. This committee should meet with the Director prior to, and at appropriate intervals during, legislative sessions to monitor legislation potentially affecting the AEMC and ADEM. As needed, members of this committee should be available to assist the Director and ADEM staff in meetings with the Executive branch and leaders and members of the legislature on significant legislative issues, especially ADEM appropriations. Additionally, this committee should monitor and provide input on ADEM's media and public outreach efforts. This committee should keep the AEMC apprised of all important external relations matters.

3. Personnel Standing Committee

The AEMC should establish a standing committee to assist in evaluating the performance of the Director and to provide feedback to the Director on the performance of ADEM staff. Committee assessments should be provided to the AEMC for use in an annual evaluation of the Director. This committee should work with the Director in developing a succession plan for the Director and providing, consistent with merit system law, for the development of trained personnel to be considered for higher level responsibilities. This committee should also receive regular reports on the Director's efforts to improve diversity within ADEM, including senior ADEM positions.

4. Special Committee on Procedure

The AEMC should establish a special committee to review all of the AEMC and ADEM procedural rules (Divisions 1-2 of the ADEM Administrative Code) with AEMC and ADEM counsel. Upon completion of the review, this committee should make recommendations for changes to improve the AEMC's procedural rules and actions the AEMC is authorized to take under existing rules that would

benefit the AEMC or ADEM. This review should include evaluation of the frequency of AEMC meetings, the costs and benefits of holding meetings in various locations across the State, and procedures for notice to the AEMC of ADEM-initiated rulemakings and approval of these ADEM-initiated rulemakings.

5. EMC Website

The AEMC Strategic Planning Standing Committee should review the ADEM website to determine if additional information on the role and composition of the AEMC would be beneficial. The Committee would also review the content and recommend any improvements for consideration to the full AEMC.

6. Input from the Public and ADEM Staff

The AEMC Strategic Planning Standing Committee should consider additional ways for the public and for ADEM staff to provide input to the AEMC.

B. ADEM Goals and Strategies

1. ADEM Funding

The most consistent theme from all the ESC and town hall meetings was the need for additional and more stable funding for ADEM. In the wake of the current State fiscal crisis, ADEM has received severe funding cuts and further cuts are expected. The AEMC and ADEM must continue to be proactive in addressing ADEM's funding needs.

Alabama ranks low in the level of state funding it provides for environmental protection. Research by the Public Affairs Research Council of Alabama (PARCA) identified several methods used by states to fund environmental protection agencies. One mechanism is to fund environmental agencies from general tax revenues. Other mechanisms include imposition of fees on the regulated community for permitting activities and collection of penalties for violations. ADEM already utilizes all of these methods although

penalty collections, less the Department's cost to take the enforcement action, go to the State General Fund.

ADEM should coordinate the efforts of a broad-based stakeholder group to determine how best to solve the funding issue, to include developing legislative support for unique and creative sources of revenue. Specific areas that ADEM and stakeholders should explore to generate additional and more stable funding include:

a. Tipping Fee on Solid Waste Disposal

ADEM should work with affected parties to draft legislation that would impose a per ton tipping fee on the generators of solid waste disposed in permitted landfills in the state. The fees could be collected by landfill operators but imposed on generators. Revenue from this legislation should be used to offset losses in appropriations from the General Fund, provide for new laboratory facilities for ADEM, provide for operation of the solid waste program, and provide state matching funds for use in drawing down available federal funds.

b. Permit Fees

ADEM should continue to periodically evaluate its current permit issuance fees to ensure that they are comparable to those of other southeastern states and that they continue to cover all permissible costs incurred by the Department for permit application review, permit issuance and compliance inspections.

c. Federal Funds

ADEM should continue to ensure that it applies for all available federal funds for which it is eligible and has the capacity to administer. ADEM should provide a yearly report to the AEMC identifying all federal funds it receives by program. ADEM should provide an annual report to the AEMC, the Governor, and leaders in the legislature of all federal program funds that are available but

which ADEM is not receiving due to the state's inability to provide the required local match.

d. Penalties and Violations

ADEM should prepare an annual report to the AEMC detailing the amount of penalties obtained by each program, the portion of those penalties retained by ADEM, and the amount transferred to the State General Fund. ADEM should develop recommendations for the AEMC on possible legislative changes that would increase the amount of penalties retained by ADEM while avoiding a "speed trap" type penalty program.

2. External Relations

It is imperative for its future success that ADEM develop and consistently implement a more effective combination of external relation strategies. ADEM must communicate more effectively with the Executive and Legislative branches of government, other state agencies, the public, and the regulated community to improve its credibility. ADEM's credibility problems are readily apparent from comments received during the ESC and town hall meetings and from ADEM's perception among legislators and other agencies.

Comments made during the ESC and town hall meetings indicate a misunderstanding of the nature and extent of ADEM's authority, particularly among members of the public who oppose issuance of a particular permit and believe ADEM is authorized to deny permits based on factors unrelated to protection of the environment. These perceptions, however, appear to be also due in part to ADEM's failure to adequately emphasize the importance of public perception and the need for an effective program for dealing with the legislature.

To address the credibility issue, ADEM must seek ways to further incorporate public participation in its activities and educate the public on the limits of its authority thereby directing criticism to the proper place. ADEM should

investigate the feasibility of using the Alabama university system to assess external attitudes and awareness and to possibly assist ADEM in developing a public education and relations plan. Specifically, ADEM should undertake the following actions:

a. Media & Public Outreach Program

ADEM should develop and implement an expanded program of outreach to the media and the public. This program should include periodic visits with reporters covering ADEM activities and editorial boards of major media outlets. In areas with high levels of public concern over particular issues before ADEM, this program should include more informal meetings with state and local officials, community leaders, the media, and the public. The program should also include an initiative to improve the process used by ADEM staff for handling inquiries and complaints from the public. When an inquiry or complaint is within the authority of another agency or official, ADEM staff should provide assistance in reaching the proper agency or official. The Director should provide regular reports on ADEM's progress in developing this program at meetings of the AEMC External Relations Standing Committee.

b. Legislative Relations

ADEM should review its current program for legislative interaction and implement changes that will make the effort more effective. This program should include expanding the number of ADEM personnel with direct legislative responsibilities to include the Director and, as appropriate, division chiefs. ADEM officials should continue to seek to meet with legislative leaders and key committee chairs throughout the year and especially before and during each legislative session. Members of the legislature should be briefed on matters significant to the state and to ADEM and such efforts should include members of the AEMC when appropriate. The program should build on previously successful strategies to develop consensus among stakeholders for legislative action and coordinating efforts among stakeholders to support ADEM priorities. The

Director should provide progress reports on implementation at meetings of the AEMC External Relations Standing Committee.

c. Executive Branch Relations

ADEM should build on existing lines of communication with the Governor and the administration staff, to further ensure an awareness of matters of importance to the state and ADEM. These communications may cover much of the same material conveyed to legislators, particularly matters affecting ADEM's budget. When appropriate, these briefings should include members of the AEMC. ADEM should also expand communication and coordination with other state agencies on matters of mutual interest. The Director should provide progress reports on implementation at meetings of the AEMC External Relations Standing Committee.

3. Internal Efficiency and Effectiveness

Comments on the professionalism and technical capability of ADEM staff were consistently positive throughout the entire strategic planning process. Clearly, the level of expertise and ability of the ADEM staff is one of its greatest resources. Several areas, however, offer the potential for possible improvement and should be examined.

a. Technology Improvements

Continued use of evolving technology should be a priority of ADEM. While ADEM currently offers useful information via its website, an improved and expanded website may allow for better internal and external communication. ADEM should investigate the feasibility of an online filing system and online access to official filings submitted to the AEMC, ADEM, or AEMC Hearing Officers. ADEM should provide a report to the AEMC Strategic Planning Standing Committee on its progress in this area within six months.

b. Environmental Initiatives

Examples of ADEM's success in developing and implementing environmental initiatives include the quality of Alabama's surface waters and drinking water, expanded brownfield programs, and implementation of a broader storm water program. Clearly, the integrity and hard work of ADEM staff have contributed to these ongoing successes. These successes should be built upon by continuously identifying changing conditions or major issues of concern within ADEM's jurisdiction, obtaining information from all possible sources about the issues, and working with others to develop a response that is supported by a broad range of stakeholders. Key areas where ADEM should focus attention include:

i. Enforcement and Administrative Penalties

During the strategic planning process questions were raised about the Department's present administrative penalty process and the application of statutorily-mandated factors in the derivation of penalty amounts. Development of a more defined enforcement and penalty policy should help the public and the regulated community better understand how ADEM applies statutorily mandated factors in an evenhanded and fair manner. Specific provision in a penalty policy for more graduated penalty assessments and sufficiently punitive penalty assessments can serve to halt existing environmental violations and deter future ones. Differences in penalty assessments for similar violations should be addressed through adequate explanation of how the statutory penalty factors are applied. While recognizing the need for flexibility, a review of the current process can lead to beneficial changes. ADEM should coordinate the efforts of a broad-based stakeholder group to examine the current process and provide recommendations for change. ADEM should present a report to the AEMC Strategic Planning Standing Committee on the advantages and disadvantages of the recommended changes; such report to be rendered within six months.

ii. Quality of Life Issues

Public concern over quarries, landfills, and confined animal feeding operations (CAFOs) were some of the most consistent and intense complaints raised during the strategic planning process. Much of the concern over these facilities arises from quality of life issues (traffic, noise, vibration, odor, property values, etc.) that are beyond ADEM's authority to either consider or address in the permitting process or as a part of compliance and enforcement efforts. Similarly, environmental justice concerns were raised frequently during the strategic planning process. These concerns relate to the assertion that some ADEM permitting decisions lead to disproportionate impacts on communities of color and low-income communities. ADEM should begin to address these concerns through improved education on the limits of ADEM's current authority and through development of collaborative efforts to find ways to deal with these issues, including potential changes in law. ADEM should make a report on its progress in this area to the AEMC Strategic Planning Standing Committee within six months.

iii. ADEM-Initiated Rulemaking

ADEM should expand on the current process of advance notification of proposals to initiate rulemaking delivered in the Director's Report at AEMC meetings. The expanded process should provide for briefings, if requested, and written notification to AEMC members at the beginning of the rulemaking process. ADEM should report to the Special Committee on Procedure at its first meeting on improvements that may be improve the process.

iv. Expansion of Pollution Prevention Programs

ADEM should develop ways to enhance existing pollution prevention programs including mechanisms to invest additional funding and provide incentives for participation in the P2 program, reuse/recycling programs, industrial recycling programs, and pollution prevention audits. ADEM should also investigate the potential costs and benefits associated with implementation of

model environmental management system programs. ADEM should make a report on its progress in this area to the AEMC Strategic Planning Standing Committee within nine months.

v. ADEM's Internal Programmatic Strategic Plan

ADEM should review its internal programmatic strategic plan dated January 16, 2004, to ensure that it is consistent with this plan. ADEM should report any necessary changes to its internal plan to the AEMC Strategic Planning Standing Committee within three months.

V. Conclusion

This strategic plan for the AEMC and ADEM is the result of a collaborative effort of many groups and individuals. The EMC has collected and considered numerous comments, suggestions, and ideas throughout this entire process and has endeavored to address them in this plan. The purpose of this plan is to provide the AEMC and ADEM with a set of goals to strive toward and potential strategies to implement over the coming months and years to improve their efficiency and effectiveness.

The AEMC intends to monitor its progress toward achieving the goals set out in this plan as well as that of ADEM. The goals and strategies in this plan are internal in nature and not binding on any member of the public. Pursuit of identified goals may involve statutory or regulatory changes and if so, will be subject to appropriate legislative or regulatory procedures. Deviations from the goals and strategies set out in this plan are to be expected and should be based on the professional judgment of ADEM's staff with oversight and guidance from the AEMC. The AEMC views the strategic planning process as an ongoing effort, subject to revision at any appropriate time for appropriate reasons.

The AEMC deeply appreciates the efforts of everyone who has participated in this effort and invites suggestions from any interested party for improving the planning process as it moves forward.